E. I. DuPont de Nemours *and* Walter J. Slaughter.
Case 4-CA-9821

July 20, 1982

DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND ZIMMERMAN

On August 22, 1980, Administrative Law Judge Benjamin Schlesinger issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and counsel for the General Counsel filed a brief in answer to Respondent's exceptions and brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge, as modified herein, and to adopt his recommended Order.

The Administrative Law Judge concluded, and we agree, that Respondent violated Section 8(a)(1) of the Act on November 15, 1978, by refusing to permit a fellow employee to accompany employee Walter J. Slaughter to an interview with Supervisor of Operations Thomas Farley and by suspending and later discharging Slaughter because he refused to submit to an interview without a witness of his choice.

The record shows that at approximately 7:45 a.m., on the morning of November 15, 1978, Slaughter posted on the canteen bulletin board a "Notice To Employees," which he had received upon request from a Regional Office of the Board. Farley, being present in the canteen at the time, informed Slaughter that he had violated company policy by posting the notice without permission, although Slaughter, in fact, had previously used the bulletin board without incident. Farley pointed his finger at Slaughter and told him that he wanted to discuss this incident with him later.

Slaughter had been put on probation approximately a month earlier in the office of this same supervisor for an infraction of the rules. He had also been informed at that time that he would have to "follow the rules to the hilt" and that his work would be reviewed monthly.

Subsequently, on the same day Farley telephoned and stated that he wished to discuss the canteen incident and the posting of the notice with Slaughter in his office. Slaughter replied that he would discuss the matter with Farley if a fellow employee acted as a witness during the interview. Farley terminated this conversation with the comment, "I'll talk to you later."

An hour later Farley approached Slaughter on the mill floor, and reiterated that he would like to discuss the canteen incident, to which Slaughter replied, "I am willing to discuss the situation, if you will allow me to have a third party present," and he indicated a preference for coworker Jimmy Fields. Farley responded, "I don't know . . . I'll see you later."

After the mill floor conversation, Farley returned within 5 minutes and told Slaughter to gather his personal belongings and report to the foreman's desk. This order was immediately obeyed. Subsequently he was told to report to the front office and then to Ritter's office. These instructions likewise were followed by Slaughter without protest. In this latter location, Farley again tried to engage Slaughter in a discussion of the canteen posting, to which Slaughter replied he would be "more than happy" to discuss the matter, so long as he had a fellow employee as a witness, whereupon Slaughter brought Fields to the office. Farley refused to enter into a discussion with Fields present and ordered Fields to return to his job assignment. Farley then asked if Maynard Ritter, another supervisor, or Dick Robinson, industrial relations supervisor, would be acceptable as a witness, to which Slaughter replied that they were a part of management. Slaughter thereupon sought the assistance of an employee in the accounting department, located across the hall, stating to her, "It appears I'm going to be disciplined in some way, so would you please be a third party for me?" Whereupon Farley then told Slaughter, "This is your last opportunity to discuss the incident this morning. Your job is in jeopardy."

After some further discussion, Slaughter was told that he was being dismissed until further notice, but that this action did not constitute a discharge.

The conversations between Slaughter and Farley occurred over a time period of some 6 hours, during which, at any time, Respondent was free to withdraw its efforts for an interview and proceed in the manner it deemed appropriate.[1] Respondent did not adopt this course of action, but rather continued to press Slaughter for a meeting, even after his temporary suspension on November 15 and prior to the suspension's conversion to a discharge. Such efforts were successful on November 24 when Slaughter met alone with Respondent's em-

[1] *N.L.R.B.* v. *J. Weingarten, Inc.*, 420 U.S. 251 (1975); *International Ladies' Garment Workers' Union, Upper South Department, AFL-CIO* v. *Quality Manufacturing Co.*, 420 U.S. 276 (1975).

ployee relations supervisor. That conversation dealt exclusively with posting the union notice on the bulletin board and Slaughter's request for a witness at the proposed meeting with Farley. Slaughter was recalled to the plant and discharged by Farley on November 29, 1979.

It is clear, therefore, from the foregoing evidence that Respondent's purpose in interviewing Slaughter was to talk about his posting of the notice. It is equally clear that Slaughter, who was on probation, had been admonished to "follow the rules to the hilt," and was informed in the cafeteria by Farley that in posting the notice he had violated a company rule, and that Slaughter was of the opinion that the purpose of the interview was to discuss this breach of company policy. Thus, Slaughter had reasonable grounds for believing that disciplinary action probably would flow from this interview with Farley, as it had from the last interview with this supervisor.

In such circumstances, Slaughter had the right under Section 7 of the Act to an employee witness, and his request was a protected activity under Section 7.[2] We find, therefore, that Respondent could not lawfully discipline Slaughter for asserting that right.

However, Respondent in its supporting brief makes the argument that under the Board's *Wright Line, a Division of Wright Line, Inc.*, decision,[3] there existed a valid reason for Slaughter's discharge; i.e., his unauthorized posting of a National Labor Relations Board notice on the bulletin board. Respondent misconstrues the Board's reasoning, as explicated in that decision, since it is not sufficient to show that there may exist another reason for discharge; rather, Respondent must demonstrate that the same action would have taken place even in the absence of the protected activity. Such is not the case here, however, inasmuch as Respondent stated in its opening remarks at the hearing that its intent "was not to discipline" Slaughter for posting the notice, but just to "ask him a number of simple questions."

Respondent also argues that Slaughter was insubordinate. The evidence shows, however, that Slaughter repeatedly stated his willingness to go to an interview if Respondent would grant his request for a witness. Furthermore, the facts show that Slaughter at no time was disorderly or presented any threat of violence in the work area; was not disrespectful to any superior; and complied immediately when told to report to the front desk, the front office, and Ritter's office. The record is also clear that Slaughter proposed and brought to Farley two alternative witnesses, both unsatisfactory to Farley. In these circumstances, we find *Roadway Express, Inc.*,[4] to be inapposite on the facts and clearly distinguishable from the situation presented here.[5]

It is evident that any, "insubordination" on the part of Slaughter was restriced to his insisting on having an employee of his choice present at any discussion concerning the posting incident. In so insisting, he was asserting his *Weingarten* right, and he could not be disciplined under the guise of "insubordination," as he was here, for exercising that right. Accordingly, we find that Respondent by its discharge of Slaughter violated Section 8(a)(1) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, E. I. DuPont de Nemours, Wilmington, Delaware, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

[2] *Materials Research Corporation*, 262 NLRB 1010 (1982). See also *Glomac Plastics, Inc.*, 234 NLRB 1309 (1978), enfd. in relevant part 592 F.2d 94 (1979).

[3] 251 NLRB 1083 (1980).

[4] 246 NLRB 1127 (1979).

[5] In *Roadway Express*, unlike the situation here, the refusal to comply with a directive led to a disruption or disturbance which challenged supervisory authority.

DECISION

STATEMENT OF THE CASE

BENJAMIN SCHLESINGER, Administrative Law Judge: This proceeding was heard before me in Wilmington, Delaware, on July 7, 1980. The principal issues presented by the complaint, which issued on January 31, 1980, based on the unfair labor practice charge of Walter J. Slaughter, filed on December 13, 1978, are whether an employee in a nonunion facility has an 8(a)(1) right to have a "witness" present at an interview which he believes will result in disciplinary action by his employer and whether the employer violates the Act by discharging its employee for insubordination because of his failure to appear for the interview. Respondent E. I. DuPont de Nemours denied that it violated the Act in any respect.

Upon the entire record in this proceeding, including my observation of the demeanor of the witnesses and consideration of the briefs filed by the General Counsel and Respondent, I hereby make the following:

FINDINGS OF FACT

I. JURISDICTION

Respondent is and has been at all times material herein a corporation duly organized under and existing by virtue of the laws of the State of Delaware, with its principal office and place of business in Wilmington, Delaware, and is engaged in the manufacture of chemicals and related products. During the year preceding the date of the complaint, Respondent in the course and conduct of its business shipped products valued in excess of $50,000 directly to customers outside the State of Delaware. I conclude, as Respondent admits, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Facts*

On November 15, 1978, at or about 7:45 a.m., Slaughter placed on a bulletin board in Respondent's canteen a "Notice To Employees," a form which he had received from a Regional Office of the Board in response to his request for information regarding employees' rights to organize. The notice, which is normally forwarded to an employer whose employees have filed a petition for an election of representative, states, *inter alia*, that a petition has been filed and that it has been suggested to the employer that the notice be posted for the employees' enlightenment of their basic rights under the Act.

Thomas Farley, Respondent's supervisor of operators and services, was in the canteen at the time and told Slaughter to remove the notice, stating that Respondent's approval was required before any notices could permissibly be posted. Slaughter protested that Farley's direction interfered with Slaughter's lawful right to organize and refused to comply.

At or about 10 a.m., Farley telephoned Slaughter and asked if he would come to Farley's office for a meeting.[1] Slaughter said he would not discuss union activity without the presence of a third party.

About an hour later, Farley went to Slaughter's work location and offered either Supervisor Maynard Ritter or Eugene Robinson, Respondent's industrial relations supervisor, as Slaughter's requested witness; but Slaughter rejected Farley's suggestion, instead wanting employee Fields, who was also an official of the National Association for the Advancement of Colored People. Farley then requested that Slaughter return to his work.

About one-half hour later, Farley, accompanied by Ritter, returned to Slaughter's work station. Farley announced that Slaughter's conduct constituted insubordination, that Farley was removing him from his assignment, and that he should follow Ritter to an assigned office. Slaughter asked Fields to witness that Farley was taking him off the job and telephoned someone that: "It is now 11:20, Farley is taking me off the job and we are going to an office." Slaughter then accompanied Ritter to an office close to Farley's office.

Because it was nearing the lunch hour, Farley instructed Ritter to tell Slaughter that he could go to lunch, but that he was to return to the office immediately afterwards. As Farley left his office to go to lunch, Slaughter stepped into the hallway and announced somewhat loudly that he would not discuss union business without a third party. Farley replied that he had not said anything, but Slaughter once more made his intentions known, and a little louder.[2]

After lunch, Farley decided to give Slaughter one last chance. At or about 1:35 p.m., an hour after Slaughter had returned to the office from his lunch, Farley offered Slaughter "an opportunity one more time to meet with me." Slaughter refused, insisting on a witness being present. Farley advised Slaughter: "You've been on probation and this act of insubordination jeopardizes your job." Slaughter again asked for a witness, and Farley requested Ritter to escort Slaughter from the plant. Slaughter has not worked since then.

B. *Discussion*

Respondent's sole reason for its discharge of Slaughter was his insubordination in refusing to submit to an interview without an employee witness. The General Counsel contends that Slaughter was engaged in protected and concerted activity in accord with *N.L.R.B.* v. *J. Weingarten, Inc.*, 420 U.S. 251 (1975). There, the Supreme Court held that an an employee has a right to the presence of his collective-bargaining representative at an employer-conducted investigatory interview where the employee has a reasonable fear that he will be disciplined.

Here, Slaughter had a reasonable fear that he would be disciplined because he had been placed on probation for problems of attendance only a month before, he had been warned what would happen if he did not "follow the rules up to the hilt," his work record was being reviewed monthly, and his impression of the posting incident (as shown by his balking at any questioning) was such that he believed he may have erroneously posted material without required permission.[3] His refusal to comply with Farley's demand to remove the notice, followed by Farley's requests to discuss the posting incident, surely must have instilled a reasonable belief that discipline was to follow. *Weingarten, supra* at 257.

Respondent argues that Slaughter never mentioned fear of discipline in his refusal to meet; rather, he refused solely to discuss "union matters on company time." The words used by Slaughter are unimportant. Had Respondent been satisfied that Slaughter had broken a rule by posting the notice or that he had been insubordinate in refusing to remove the notice, Slaughter might well have been discharged. "'Reasonable ground' will of course be measured, as here, by objective standards under all the circumstances of the case." *Quality Manufacturing Com-*

[1] The statement of facts is derived principally from the testimony of Farley, whom I found more reliable than Slaughter. Slaughter was, at best, expansive in his testimony and was inclined to answer his own questions and present arguments, rather than answer the precise questions asked of him.

[2] Farley stated that Slaughter would not attend the meeting without a "representative." Slaughter never testified to the use of that word, insisting that he used the word "witness." I credit Slaughter.

[3] There was no written rule prohibiting employees from posting notices on the bulletin board unless permission had been obtained.

pany, 195 NLRB 197, 198, fn. 3 (1972), cited with approval in *Weingarten*, at 257, fn. 5. Since the focus of the inquiry is whether the employee had a reasonable ground to fear discipline, the fact that Respondent never intended to discipline Slaughter, when not expressed, is immaterial.

Because Respondent concedes that Slaughter was discharged for insubordinately refusing to submit to the meeting without a "witness," the central issue concerns whether Slaughter's insistence was protected under Section 7 of the Act. If it was, then his discharge was in violation of Section 8(a)(1) of the Act. *International Ladies' Garment Workers' Union, Upper South Department, AFL-CIO* v. *Quality Manufacturing Co.*, 420 U.S. 276 (1975). Although the Board has never considered this issue directly, two Administrative Law Judges have reached contrary results. In *Materials Research Corporation*, JD-(NY)-10-80, Administrative Law Judge James F. Morton held that *Weingarten* rights do not apply to nonunion settings.[4] In *Tokheim Corporation*, JD-573-79, Administrative Law Judge Ralph Winkler held to the contrary, stating that the sweep of dicta in *Glomac Plastics, Inc.*, 234 NLRB 1309 (1978), enfd. in relevant part 592 F.2d 94 (1979), and *Anchortank, Inc.*, 239 NLRB 430 (1978), was inescapably grounded on Section 7 rights to "engage in . . . concerted activities for . . . other mutual aid or protection."

Indeed, *Weingarten* makes clear that there may be concerted activities "even though the employee alone may have an immediate stake in the outcome; he seeks 'aid or protection' against a perceived threat to his employment security." 420 U.S. at 260. The person giving aid or protection, to paraphrase and quote from *N.L.R.B.* v. *Peter Cailler Kohler Swiss Chocolates Company, Inc.*, 130 F.2d 503, 505-506 (2d Cir. 1942),[5] knows that by his action he assures himself, in case his turn ever comes, of the support of the one whom he is then helping; "and the solidarity so established is 'mutual aid' in the most literal sense, as nobody doubts." Further, the Court stated in *Weingarten*, at 262:

> Requiring a lone employee to attend an investigatory interview which he reasonably believes may result in the imposition of discipline perpetuates the inequality the Act was designed to eliminate, and bars recourse to the safeguards the Act provided "to redress the perceived imbalance of economic power between labor and management." *American Ship Building Co.* v. *N.L.R.B.*, 380 U.S. 300, 316 (1965).

There is no question that, where employees have already organized and an employee requests the presence of his union representative, the case for concerted activities is stronger than the instant one; many additional arguments may be made to support that conclusion, including the usefulness of such a procedure to both employee and employer. Even though this case may not be as strong, the conclusion is just as sound. The Act protects not only freedom of "self-organization" but also freedom of "association." "Association" may be between two employees as well as all employees, and "association" is protected in nonunion shops as well as union shops. *N.L.R.B.* v. *Washington Aluminum Co.*, 370 U.S. 9 (1962); *N.L.R.B.* v. *Columbia University*, 541 F.2d 922, 931 and fn. 5 (2d Cir. 1976). Indeed, Justices Powell and Stewart, in dissent, citing *Washington Aluminum*, so interpreted the majority's position in *Weingarten*, when they wrote (420 U.S. at 270, fn. 1):

> While the Court speaks only of the right to insist on the presence of a union representative, it must be assumed that the § 7 right today recognized, affording employees the right to act "in concert" in employer interviews, also exists in the absence of a recognized union.

It was their position that gave support to the Board's decision in *Glomac*, in which it stated:

> We conclude that Section 7 rights are enjoyed by all employees and are in no wise dependent on union representation for their implementation. [234 NLRB at 1311.]

Further, the Board's own reading of *Weingarten* and *Quality* persuaded it:

> . . . that the Court's primary concern was with the right of employees to have some measure of protection against unjust employer practices, particularly those that threaten job security. These employee concerns obtain whether or not the employees are represented by a union. [*Ibid.*]

In *Anchortank*, employees asked for union representation after the union had been elected but before it had been certified. The Board, finding that the employer unlawfully denied the employees' request, stated that the emphasis of *Weingarten* was upon the "employee's right to act concertedly for protection in the face of a threat to job security, and not upon the right to be represented by a duly designated collective-bargaining representative," and that the employees' concern for protection "remain[s] whether or not the employees are represented by a union." Thus, because the request was an exercise of Section 7 rights, it mattered not whether it was a request for an uncertified union representative or a fellow employee.

The Fifth Circuit Court of Appeals recently partially enforced *Anchortank* decision at 618 F.2d 1153 (1980). Although the court had many problems, referring, at 1155, to the case as a whole as "an issue of subtle complexity [whose] apparent simplicity quickly disintegrates to reveal an amalgam composed of a considerable number of sub-issues," it had little difficulty in concluding that there are *Weingarten* rights in a nonunion plant, and that an employee engages in concerted activities when he requests the presence of a fellow employee at an investigatory interview, provided that the employee is

[4] Administrative Law Judge Morton noted in his Decision that "no one is contending that [the employee] was disciplined for requesting representation," the very reason for the discipline herein.

[5] Cited with approval in *Houston Insulation Contractors Association* v. *N.L.R.B.*, 386 U.S. 664, 668-669 (1967); *Weingarten*, 420 U.S. at 261.

in the same appropriate unit as the employee who is being investigated. 618 F.2d at 1157. The court specifically did not decide whether the right attaches to a request for an employee not within the unit. 618 F.2d at 1158, fn. 5.

The weight of the foregoing authorities, albeit much dicta, is compelling. There are *Weingarten* rights in Respondent's nonunion facility; but that does not end the inquiry. Although Administrative Law Judge Winkler held to the same effect in *Tokheim*, he nonetheless dismissed the complaint because the employee asked not for a "representative" but for a "witness" to be present solely in an observational role. Noting that the difference may be "an overly nice exercise in semantics," he found that it was significant in light of *Weingarten's* emphasis on the "important function of a union representative at an 'investigatory interview.'"

As stated above, the Court's discussion of that "important function" was merely supportive of the Court's ultimate conclusions, but by no means determinative. Rather, as noted by the Board in *Anchortank*: "[T]he union representative's role is limited to assisting the employee and possibly attempting to clarify the facts or suggest other employees who may have knowledge of them. Thus, the union representative is not permitted to use the powers conferred upon the union by its designation as collective-bargaining agent, and, in essence, may do no more during the course of the interview than could a fellow employee." 239 NLRB at 430–431. In *Mobil Oil Corporation*, 196 NLRB 1052 (1972), and *Quality Mfg. Co., supra*, the Board held that an employer has no duty to bargain with the union representative at an investigatory interview.

The result, then, is that a union representative is granted no powers other than as a witness to sit and listen (which is exactly what Slaughter wanted), and perhaps to advise the employee being interviewed (as Fields, the first employee requested by Slaughter, could do, since he was deeply involved with racial questions and Slaughter believed he could be helpful as a mediator).

I hold, therefore, that a request for an employee witness[6] falls within the scope of protected activity under Section 7.[7] I would be remiss if I did not add that Respondent was willing to have a witness and even representative present at the interview, so long as that person was a management representative and not a fellow employee of Slaughter's. Thus, its clear aim was to prevent the exercise solely of employees, full freedom of association, and its discharge of Slaughter undermined the very goal of concerted activities protected by the Act.

III. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent set forth in section II, above, occurring in connection with the operations of Respondent described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States, and tend to lead to labor disputes, burdening and obstructing commerce and the free flow commerce.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. By refusing employee Slaughter's request for representation by a fellow employee at an investigatory interview, compelling Slaughter to appear unassisted at the interview, and discharging Slaughter because he refused to be interviewed without the attendance of an employee witness, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

3. The foregoing unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has violated the Act, I will recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. In particular, I shall recommend that Walter J. Slaughter be reinstated to his former position or, if that position no longer exists, to a substantially equivalent position, and that he be made whole for any loss of pay suffered by him as a result of the discrimination practiced against him, as prescribed in *F. W. Woolworth Company*, 90 NLRB 289 (1950), with interest thereon to be computed in the manner prescribed in *Florida Steel Corporation*, 231 NLRB 651 (1977).[8]

On the basis of the foregoing findings of fact, conclusions of law, and the entire record, and purusant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[9]

The Respondent, E. I. DuPont de Nemours, Wilmington, Delaware, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

[6] I do not distinguish between an employee within Slaughter's unit and without, a question left open by the Fifth Circuit in *Anchortank Weingarten* rights affect all the employees of Respondent, not just those within Slaughter's unit. At least in that respect, there is sufficient community of interest to make unnecessary the premature (and often time-consuming and difficult) resolution of unit questions.

[7] *Roadway Express, Inc.*, 246 NLRB 1127 (1979), relied upon by Respondent is distinguishable for several reasons: (1) Slaughter never refused to comply with any directive and, even if he had, he was finally given "one last opportunity" to be interviewed, which implies that all prior "insubordination" would have been condoned; (2) there was no "disturbance in progress" in the canteen or in the shop which necessitated Slaughter's immediate removal, and Slaughter's assertion of his *Weingarten* rights did not interfere with Respondent's legitimate right to maintain discipline; and (3) the termination of Slaughter ultimately occurred at the beginning of an interview, when Slaughter's *Weingarten* rights had, in any event, "matured."

[8] See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

[9] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

(a) Requiring that employees participate in employer investigatory interviews or meetings without representation by a fellow employee, when employees have reasonable grounds to believe that the matters to be discussed may result in their being the subject of disciplinary action, and disciplining employees for refusing to submit to such employer interviews or meetings.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their Section 7 rights.

2. Take the following affirmative action necessary to effectuate the purposes of the Act:

(a) Offer Walter J. Slaughter immediate and full reinstatement to his former position or, if such position no longer exists, to a substantially equivalent position, without prejudice to his seniority or other rights and privileges previously enjoyed by him, and make him whole for any loss of pay he may have suffered by reason of his discharge, in the manner provided in the section of this Decision entitled "The Remedy."

(b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(c) Post at its premises in Wilmington, Delaware, copies of the attached notice marked "Appendix."[10] Copies of said notice, on forms provided by the Regional Director for Region 4, after being duly signed by Respondent's representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director for Region 4, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

[10] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all parties were represented by their attorneys and afforded the opportunity to present evidence in support of their respective positions, it has been found that we have violated the National Labor Relations Act in certain respects and we have been ordered to post this notice and to carry out its terms.

WE WILL NOT discipline your for requesting to be represented by a fellow employee at any interview or meeting held with you where you have reasonable grounds to believe that the matters to be discussed may result in your being the subject of disciplinary action.

WE WILL NOT require you to take part in an interview or meeting where you have reasonable grounds to believe that the matters to be discussed may result in your being the subject of disciplinary action and where we have refused your request to be represented at such meeting by a fellow employee.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of your right to self-organization; to form, join, or assist a union; to bargain through representatives of your own choice; to engage in other concerted activities for the purpose of collective bargaining or other mutal aid or protection; or to refrain from any or all such activities, except to the extent permitted by Section 8(a)(3) of the Act.

WE WILL offer Walter J. Slaughter immediate and full reinstatement to his former position or, if such position no longer exists, to a substantially equivalent position, without prejudice to his seniority or other rights and privileges previously enjoyed by him, and make him whole for any loss of pay he may have suffered by reason of our discharge of him, with interest.

E. I. DUPONT DE NEMOURS